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Reasons for Decision

**New Brunswick Power
Transmission Corporation**

MH-1-2005

June 2005

Detailed Route

Canada

National Energy Board

Reasons for Decision

In the Matter of

New Brunswick Power Transmission Corporation

Detailed Route Hearing for New Brunswick
Power Transmission Corporation International
Power Line Electricity Certificate EC-III-25

MH-1-2005

June 2005

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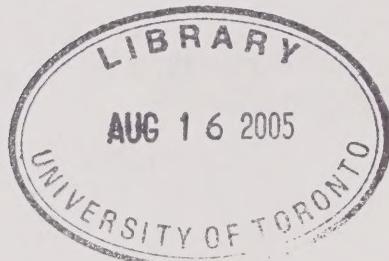
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Cat No. NE22-1/2005-5E
ISBN 0-662-40534-X

This report is published separately in both official
languages.

Copies are available on request from:

The Publications Office
National Energy Board
444 Seventh Avenue S.W.
Calgary, Alberta, T2P 0X8
E-Mail: publications@neb-one.gc.ca
Fax: (403) 292-5576
Phone: (403) 299-3562
1-800-899-1265

For pick-up at the NEB office:

Library
Ground Floor

Printed in Canada

© Sa Majesté la Reine du Chef du Canada 2005
représentée par l'Office national de l'énergie

Nº de cat. NE22-1/2005-5F
ISBN 0-662-74135-8

Ce rapport est publié séparément dans les deux
langues officielles.

Demandes d'exemplaires :

Bureau des publications
Office national de l'énergie
444, Septième Avenue S.-O.
Calgary (Alberta) T2P 0X8
Courrier électronique : publications@neb-one.gc.ca
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Imprimé au Canada

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Abbreviations and Definitions

ATV	All Terrain Vehicle
Board or NEB	National Energy Board
CEA Act	<i>Canadian Environmental Assessment Act</i>
Certificate	Certificate of Public Convenience and Necessity EC-III-25
CSR	Comprehensive Study Report
Crossing point	A point within the Corridor where the IPL crosses existing infrastructure or a significant topographical feature
ha	hectares
IPL	International Power Line
km	kilometre
KP	Kilometre Post
kV	kilovolt
m	metre
NEB Act	<i>National Energy Board Act</i>
NB Power	New Brunswick Power Transmission Corporation
PID	Property Identification Number
PPBoR	Plans, Profiles and Books of Reference
RoW	Right of Way
STR	Structure
U.S.	United States of America

Recital and Appearances

IN THE MATTER OF the *National Energy Board Act* and the regulations made thereunder;

IN THE MATTER OF applications dated 25 October 2004 and 26 January 2005 by New Brunswick Power Transmission Corporation, pursuant to section 33 of the *National Energy Board Act*, for approval of the Plans, Profiles and Books of Reference respecting the detailed route for the International Power Line Electricity Certificate EC-III-25 from the Point Lepreau Peninsula, through Saint John and Charlotte counties, New Brunswick to a point on the international border between Canada and the United States near Woodland, Maine;

IN THE MATTER OF written statements of opposition filed concerning specific sections of the detailed route of the power line; and

IN THE MATTER OF National Energy Board Hearing Order MH-1-2005.

Heard in St. Stephen, New Brunswick on 9 May 2005;

BEFORE:

D.W. Emes	Presiding Member
E. Quarshie	Member
C.L. Dybwad	Member

APPEARANCES:

New Brunswick Power Transmission Corporation	C.D. Whelly	J.E. Blackadar B.K. Irving J. Williamson
Frederick P. Tuddenham	On his own behalf	
Albert A.B. Stevens	On his own behalf	
National Energy Board	D. Saumure	



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Chapter 1

Background

1.1 Regulatory Process for the NB Power International Power Line (IPL)

On 31 May 2001, New Brunswick Power Corporation applied to the National Energy Board (Board) for a Certificate of Public Convenience and Necessity (Certificate) to construct an IPL from the Point Lepreau terminal, New Brunswick to a point on the international border between Canada and the United States (U.S.) near Woodland, Maine, U.S. On 16 August 2001, the Board directed New Brunswick Power Corporation to conduct a comprehensive study to assess the environmental effects of the project under the *Canadian Environmental Assessment Act* (CEA Act) and to prepare a Comprehensive Study Report (CSR). The CSR was submitted to the Federal Minister of the Environment. On 20 December 2002, it was determined that the project was not likely to cause significant adverse environment effects and that the proposal did not require further assessment under the CEA Act.

In March 2003, the Board held a public hearing to review the application for the Certificate and in May 2003 released Reasons for Decision approving the application. In August 2003, after approval by Governor in Council, Certificate EC-III-25 was issued by the Board approving the construction and operation of the IPL. The general route of the IPL was also approved at that time.

On 1 October 2004, an Amending Order for Certificate EC-III-25 was issued by the Board, assigning the Certificate from New Brunswick Power Corporation to New Brunswick Power Transmission Corporation (NB Power). This was required as a result of the changes taking place in the New Brunswick electricity industry.

1.2 Description of NB Power's Facilities

Once built, the IPL will consist of approximately 95.5 km of 345 kV transmission line from the Point Lepreau Peninsula, through Saint John and Charlotte counties, New Brunswick to a point on the international border between Canada and the U.S. near Woodland, Maine. The stated purpose of the IPL is to improve reliability, efficiency, and market access of the regional electricity system.

The general route of the IPL consists of a one km wide corridor starting at the Point Lepreau terminal, continuing to a point northeast of the community of Lepreau, and then west, near Lee Settlement. The corridor then follows a westerly path through St. David Ridge and Old Ridge to the St. Croix River at the New Brunswick/Maine border. (see Figure 1-1) At the border, the IPL will connect with a proposed 345 kV transmission line running from the international border to Orrington, Maine, for which Bangor Hydro is concurrently seeking approvals from Maine and U.S. federal authorities. As part of the Certificate conditions, NB Power must demonstrate to the

Board's satisfaction that all approvals in the U.S. have been granted for the corresponding U.S. power line before construction on the Canadian portion of the line can commence.

1.3 Determination of the Detailed Route

Certificate EC-III-25 granted NB Power the approval to construct and operate an IPL within the specified one km wide corridor. Once a general route is approved, the *National Energy Board Act* (NEB Act) provides for a detailed route process to determine the exact location of the power line within that one km corridor.

The approval process prescribed by the NEB Act for considering the detailed route is designed to involve all affected landowners and other affected parties¹. This process begins when the Company files its Plans, Profiles and Books of Reference (PPBoR) for the detailed route. The PPBoR identifies the precise location of the power line including the lands to be crossed, the types and amounts of land rights required, and the affected landowners and tenants.

Once the PPBoR has been filed, paragraph 34(1)(a) of the NEB Act requires the Company to serve a notice on all landowners from whom land or land rights are proposed to be acquired. This notice describes the proposed detailed route of the power line and the procedure to be followed in making objections to the Board. Pursuant to paragraph 34(1)(b) of the NEB Act, the Company must also arrange to publish a public notice in at least one issue of a local newspaper. Landowners opposing the proposed detailed route have 30 days after receiving the notice to file a written statement with the Secretary of the Board and the Company explaining their interest and their reasons for opposition. Other affected parties have 30 days after the last publication of the public notice to file an objection with the Board.

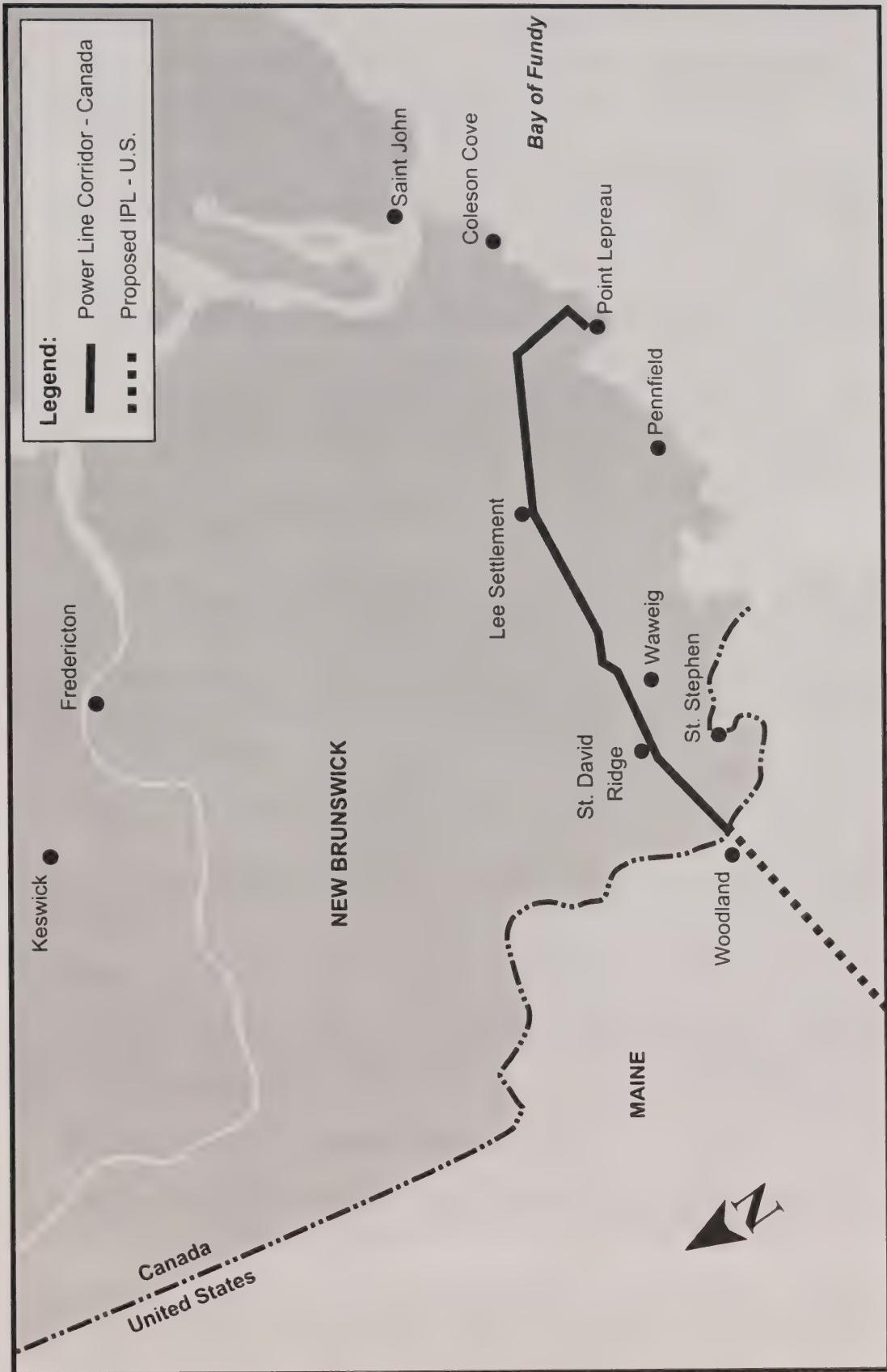
If no objections to the detailed route are received, the Board may approve the PPBoR without a public hearing. However, if an objection to the route is received, the Board must hold a public hearing in the area where the relevant lands are located, unless the opposition is withdrawn or the statement is deemed frivolous or vexatious. After reviewing all of the evidence, the Board determines whether the proposed route is the best possible route. A copy of the Board's decision is required to be sent to the Federal Minister of Natural Resources and to each person who made representations at the hearing.

On 25 October 2004 and 26 January 2005, NB Power applied to the Board for approval of the PPBoR. Pursuant to the NEB Act, NB Power made available for public viewing copies of its PPBoR, served notices on owners of lands proposed to be acquired, and published notices in newspapers (19 and 22 November 2004) in the vicinity of the proposed detailed route. NB Power also served a substituted service notice on 31 January 2005 and published the related notice on 3 and 4 February 2005.

The Board received eight statements of opposition to the proposed detailed route of the IPL, dated between 26 November and 15 December 2004. Six landowners withdrew their statements of opposition and two proceeded to the hearing stage.

¹ A person who anticipates that his land may be adversely affected by the proposed detailed route of the IPL, other than the owner of land whose land is crossed by the proposed detailed route.

Figure 1-1
Power Line Corridor



1.4 Detailed Route Hearing Issues

Pursuant to subsection 36(1) of the NEB Act, prior to approving the PPBoR the Board must take into account all statements filed pursuant to subsection 34(3) or (4) and representations to determine:

... the best possible detailed route of the pipeline and the most appropriate methods and timing of constructing the pipeline [in the present case, the power line]

Issues already addressed in the context of the certificate hearing, such as the need for the IPL and its general route, are not reconsidered during the course of the detailed route hearings. The Board also has no jurisdiction to approve any route outside the approved corridor but can hear evidence regarding such a proposal in order to determine whether the proposed route is the best route. Further, it is not within the Board's authority to consider matters of compensation or to participate in the negotiation or arbitration processes available through the Federal Minister of Natural Resources.

Chapter 2

The Application: Detailed Route

2.1 IPL Corridor and Route Selection

NB Power submitted that the process utilized to determine and select its corridor involved:

1. delineation of a study area that includes the origin and terminus points of the transmission line;
2. data collection from previous field examinations and from government agencies and non-government organizations;
3. identification, classification, and 1:50,000 scale mapping of biophysical and socioeconomic constraints, and completion of a preliminary assessment of constructability;
4. identification of alternative corridors (one km wide) within the study area, based on constraint mapping and preliminary assessment of constructability;
5. selection of the preliminary preferred one km wide IPL corridor based on comparative assessments of the alternative corridors with respect to constraint encroachment and the difficulty of mitigation;
6. modifications to the preliminary preferred one km wide IPL corridor as a result of additional detailed investigations of issues and constraints;
7. identification of a preliminary preferred 50 m Right of Way (RoW) within the one km corridor; and
8. application for NEB approval of the one km wide preferred corridor.

In its May 2003 Reasons for Decision on NB Power's proposed IPL, the Board expressed its view that the one km wide corridor and the 50 m wide RoW route selection process and width requirements were appropriate.

2.2 Detailed Route Selection Criteria

Working within the approved one km wide corridor, and using a set of guiding principles, NB Power defined a 50 m RoW route, or detailed route, within which the IPL would be constructed.

The primary principle considered by NB Power in the routing of the 50 m wide RoW was to minimize the overall length of the IPL by keeping the IPL as straight as possible, since length

ultimately determines engineering design, cost, and the extent, magnitude, and impact of the IPL on the environment.

The secondary routing principles used by NB Power were grouped into three categories as follows:

1. bio-physical and socio-economic constraints (categorized into three classes, see Table 2-1);
2. engineering matters, including consideration of line design, constructability, type and number of structures (so as to minimize structure height and footprint), and terrain constraints (slope, wet areas, road crossing “windows”, watercourse crossing angles, accessibility for construction and maintenance); and
3. land matters, including consideration of land parcel configuration, number of parcels, existing corridors, and proximity to residences, buildings, and recreational developments.

To the extent possible, NB Power applied these principles in selecting its 50 m wide RoW in order to obtain the following objectives:

1. achieve the shortest length and straightest alignment to minimize the extent, magnitude, and impact on the environment, lands, engineering design, and cost;
2. minimize the number of suspension structures and number of angle structures to minimize intrusion on the environment and lands and to avoid increased maintenance issues, costs, and aesthetic impacts;
3. maintain watercourse crossings at 90 degree angles to minimize light exposure and buffer zone impacts caused by vegetation removal and maintenance; and
4. avoid encroachment on, or minimize impact to, mapped bio-physical and socio-economic constraints.

The three classes of bio-physical and socio-economic constraints used by NB Power in selecting the detailed route are described in the following table.

Table 2-1
Constraints by Class

Class 1 (Constraints for which mitigation may not be possible)	Class 2 (Constraints for which mitigation is possible)	Class 3 (Constraints which may require special construction practices)
Sugar Bush	Known Historical/Archaeological Sites (and areas of high potential)	Landfill Sites
Mining Areas	Mineral and Petroleum Claims	Topography
Military Bases	Agricultural Land	Large Waterbodies
National, Provincial, and Municipal Parks	Water Supply Areas	
Mature Coniferous Forest Habitat	Fish Hatcheries	
Wetlands	Watercourse Crossings/Aquatic Habitat	
Environmentally Significant Areas	Wildlife/Ecological Reserves	
Permanent Forest Sample Plots	Game Management Areas	
Habitat for Species at Risk	Blueberry Fields	
Migratory Bird Staging Areas	Tree Nurseries and Plantations	
Deer Wintering Areas		
Ducks Unlimited Sites		
Areas with Risk of Subsidence		
Airport Runway		
Municipality/Built-Up Area		

2.3 Detailed Route Selection Process

NB Power stated that the following steps were undertaken to select the detailed route for the 50 m wide RoW for the IPL:

1. assemble study team comprised of technical experts in real estate, engineering, environment, surveying, construction, and vegetation management;
2. review maps (property information, contours, environmental constraints) to identify potential routes between IPL origin and terminus points within the approved one km wide corridor;

3. field investigation to identify potential road crossing “windows” (considering primary and secondary principles) within the approved one km wide corridor;
4. review aerial photographs of the approved one km wide corridor to identify any other constraints, and aerial reconnaissance (with video recording) along the centerline of the approved one km wide corridor to verify potential crossing “windows” and identify additional constraints;
5. selection of acceptable crossing points within crossing “windows” by identifying the restrictions (e.g. residences, wetlands, crossing angle) located within each window;
6. delineation of the 50 m wide RoW centerline by drawing a line between each crossing point, with subsequent centerline adjustments made by applying the primary and secondary routing principles;
7. field visits to assess accuracy of data and to ground-truth the mapping used by the study team;
8. aerial reconnaissance of the selected 50 m wide RoW to assess its acceptability based on the primary and secondary routing principles;
9. delineation of proposed 50 m wide RoW on to property maps, to identify directly affected landowners;
10. public information sessions held for key stakeholders and affected landowners to identify any concerns or issues regarding the proposed 50 m wide RoW;
11. adjustments made, where appropriate, to the 50 m wide RoW based on feedback received at public information sessions; and
12. submission of the final RoW alignment, in the form of Plan, Profile, and Book of Reference, to the Board in October 2004.

Chapter 3

Landowner Objections

3.1 Frederick Tuddenham

3.1.1 Description of Proposed Route

NB Power's proposed detailed route crosses Mr. Tuddenham's land (PID 01266196), which is located at the intersection of the Saint David Ridge Road and the Robinson Creek Road, near KP 79. The land is also bound on the east by a Crown Reserved Road. (see Figure 3-1) Approximately 2.4 ha of Mr. Tuddenham's property would be affected by the proposed RoW, which crosses his land diagonally in a northwesterly direction between structure 247 (KP 80 + 696) and structure 238 (KP 77 + 689). The proposed detailed route follows a straight line between these two points. (see Figure 3-1)

3.1.2 Nature of Objection

The main objection of the landowner to the proposed route is that the proposed detailed route would divide the property into two parcels and make ATV and snowmobile access easier from the adjacent road.

Mr. Tuddenham's property contains mature trees that are planned to be harvested in the future in order to farm blueberries. Mr. Tuddenham stated that his family are fifth generation blueberry farmers and that potential harvestable crop land is very important to them. Therefore, the landowner would like to have the proposed power line follow an alternative route through the southwest corner of his property to spare farmable land and reduce ATV and snowmobile access from the adjacent road. Mr. Tuddenham submitted that ATV access can cause a lot of damage to blueberry crops.

In 2001, Mr. Tuddenham suggested that the IPL follow his southern property boundary. NB Power looked at this request in terms of basic principles for designing the line, but was unable to find an acceptable solution along the southern property line. On 24 April 2005, after reviewing NB Power's evidence, Mr. Tuddenham submitted, as part of his evidence for the hearing, a map showing a different alternative route.

3.1.3 Description of Alternative Route

Mr. Tuddenham's alternative route would cross the southwest corner of his property. The alternative route would depart from the proposed route at structure 238, traveling in a southwesterly direction, then angling in a northwesterly direction beginning approximately at the Crown Reserved Road. The alternative route continues in the northwesterly direction until it joins NB Power's proposed route at structure 247. (see Figure 3-1)

Figure 3-1
Map of Frederick Tuddenham Property



3.1.4 Views of the Parties

Mr. Tuddenham's Views on NB Power's Proposed Route

Mr. Tuddenham raised concerns regarding ATV and snowmobile access along the proposed route, because of the proximity of snowmobile trails, and the resulting potential damage by ATVs and snowmobiles to his property and proposed blueberry lands. Mr. Tuddenham expressed concerns regarding the effectiveness of the mitigation proposed by NB Power with respect to access. He submitted that he has personally experienced ineffective signage on his other properties and questioned whether NB Power's public education messages are targeting appropriate groups. With respect to fencing to limit access to the RoW, Mr. Tuddenham raised concerns that the landowner is left with a maintenance program that will last for many years as it is the landowner's responsibility to maintain the fence after construction.

Mr. Tuddenham was also concerned that the proposed route crosses a stream draining the wet area in the southwest corner of his land at a location close to the Dennis Stream, which supplies drinking water for the Town of St. Stephen.

NB Power Views on Proposed Route

NB Power indicated that it selected its route across Mr. Tuddenham's property in order to keep the power line as straight as possible, resulting in the shortest distance.

NB Power indicated that a power line would not interfere with cultivation and harvesting of blueberries on Mr. Tuddenham's property. NB Power is familiar with the damage caused by ATVs and snowmobiles to sensitive property, such as blueberry land and farmland, but stated that it will put in place mitigative measures such as fencing and signage to discourage access and to better deal with landowner complaints. In particular, NB Power stated that it would provide fencing across the width of the RoW and be woven back into the wood structures about 10 metres on each side of the right of way. NB Power indicated that this would help secure the fence and restrict access. NB Power acknowledged that maintenance of any fencing would be the responsibility of the landowner.

NB Power submitted that any complaint from a landowner would be dealt with in a relatively short period of time. It committed to using an electronic tracking system for the IPL Project, which would track issues raised and commitments made, prior to and during construction, to ensure that appropriate actions are taken to address any issues or concerns and to comply with commitments.

NB Power stated that the proposed route avoids a large wetland area associated with Allen Brook, a stream that feeds into Dennis Stream. According to NB Power, the proposed route crosses the Dennis Stream at a near right angle and also allows for the existing mature treed buffer to remain. NB Power noted that the proposed route crosses a brook that drains from the wet area in the southwest corner of Mr. Tuddenham's property at the narrowest point.

The proposed route is also located south of the Robinson Creek Road to avoid the residences located along the Saint David Ridge Road.

Mr. Tuddenham's Views on Alternative Route

Mr. Tuddenham indicated that his alternative route would enable him to leave a vegetative barrier around the outside of his property. This would prevent access by ATVs and snowmobiles, alleviating his concerns of damage to his farmland.

Mr. Tuddenham stated that his alternative route would cross a wet area in the southwest corner of his property, an area he described as 20 to 25 metres wide by 50 to 100 metres wide, but which dries up in the dry time of the year. In Mr. Tuddenham's opinion, the IPL could span the wet area completely. He also indicated that he would be willing to negotiate and discuss with NB Power access to the RoW for construction and maintenance from dry land just north of his alternative route, around the wet area.

Mr. Tuddenham stated that the alternative route also avoided the wetland area associated with Allen Brook and would involve no change in impact to the watershed area, Dennis Stream, or Allen Brook. Mr. Tuddenham also stated that by using the alternative route, NB Power would be avoiding a wet area on the proposed route that crossed his property between structures 241 and 242.

Mr. Tuddenham submitted that the alternative route would also reduce the amount of land that the landowners would lose under NB Power's proposed route. According to Mr. Tuddenham, two landowners will lose 12 acres (4.9 ha) each under the proposed route and 9 acres (3.6 ha) each under the alternative route.

Mr. Tuddenham also noted that the residence on the Johnston property is located further away from the alternative route and the alternative route will not cross the agricultural land on the Johnston property. He submitted that the alternative route centres the IPL between the two residences on the west side of the Saint David Ridge Road and that this would ensure that the electromagnetic field for the residence to the north would be considerably reduced.

NB Power Views on Alternative Route

NB Power indicated that the alternative route is longer (by approximately 50 m), not as straight as the proposed route, and is more costly. NB Power suggested that the complexity of structures could be different than for the proposed route, resulting in a different environmental footprint from the structures.

NB Power indicated that the proposed route would require one "medium" and one "light" angle structure whereas the alternative route could require two "medium" angle structures between structures 238 and 247. NB Power stated that a detailed centerline survey of the alternative route must be undertaken to verify if additional and higher structures would be required. According to NB Power, the alternative route would also require additional spans of conductor.

In addition, NB Power stated that preliminary information indicated that there is a wet area (possibly a wetland) located in the southwest corner of Mr. Tuddenham's property that totally spans the alternative route. As a result of this wet area, NB Power maintained that an alternative access to the RoW would be required for construction and maintenance. NB Power suggested that one option for access would be from the north along land designated as a Crown Reserved

Road. The road has not yet been built. This access would also impose additional costs on the company.

NB Power indicated that the extra cost (construction, clearing, etc.) of the alternative route could be between \$60 000 and \$65 000.

NB Power indicated that it has not done a formal survey of the wet area on the alternative route to determine its nature and extent, the presence of rare plants, etc. Surveying the alternative route would involve a field visit in July and in September. NB Power suggested that effects of construction through this wet area, particularly if a structure were required in the wet area, could include effects on rare plants, if present, sedimentation into the Dennis Stream watershed, and removal of wetland vegetation and habitat. NB Power expressed concern regarding the suitability of the soil and terrain in this area for the construction of structures.

NB Power also submitted that the proposed route and alternative route are essentially the same with respect to electromagnetic fields for the residences along the Saint David Ridge Road.

Views of the Board

Mr. Tuddenham's primary concern is ATV and snowmobile access along the proposed route and more particularly potential damage by these vehicles to the proposed blueberry lands. The Board acknowledges that the alternative route directly addresses these concerns; however, the Board is of the view that the mitigative measures and commitments made by NB Power during the course of the proceedings would also act to minimize the potential for damage.

The Board notes that both the proposed and alternative routes avoid the routing constraints established by NB Power. As well, both result in the clearing of approximately the same amount of forested area, although the evidence indicates that the land along the proposed route will be cleared at some date, in any case, since the forest is mature and ready for harvest. However, the alternative route is approximately 50 m longer and could require structure upgrades. In addition, access to the alternative route RoW would require either accommodation from the landowner, which he indicated he would provide, or additional clearing. Accordingly, with respect to construction, the evidence indicates that the alternative route is more expensive. Similarly, the evidence indicates that the alternative route could potentially impact the Dennis Stream watershed, which is the potable water supply for the Town of St Stephen. This impact is minimized by NB Power's proposed route. Finally, the alternative route would impact two additional landowners.

Accordingly, in the Board's view, other than potentially reducing ATV and snowmobile access, the alternative route does not present any major advantage over the proposed route and may give rise to potential negative impacts.

The Board is cognizant of Mr. Tuddenham's concerns regarding access and the potential damage to his crop, when and if he decides to turn this portion of land into blueberry production. However, as indicated above, the Board is of the view that these impacts can be mitigated, particularly through fencing. In addition, the Board notes that NB Power has undertaken to implement a monitoring program that will effectively deal with the landowner's concerns on a timely basis. Therefore, the Board would condition any approval of the proposed detailed route to ensure that NB Power consults and works with the landowner to determine appropriate access control measures.

In determining the best possible route, the Board must balance the interests of the objecting landowner with the interests of the general public. The evidence presented by Mr. Tuddenham has not raised a doubt regarding the appropriateness of the proposed route. The Board is satisfied that the proposed route represents a better balance of all the relevant factors and is therefore satisfied that the route proposed by NB Power is the best detailed route.

Decision

The Board finds that the detailed route proposed by NB Power is the best possible route.

The approval of the detailed route will be subject to the following conditions:

- 1 NB Power shall work in cooperation with Mr. Tuddenham to determine appropriate access control measures for his property. NB Power shall file with the Board, no later than sixty (60) days prior to the start of construction on Mr. Tuddenham's property:**
 - a) a summary of the discussions held between Mr. Tuddenham and NB Power relating to the selection of access control measures.**
 - b) a description of the access control measures to be implemented specific to Mr. Tuddenham's property, for Board approval.**

Copies of any filings associated with this condition shall be provided to Mr. Tuddenham.

- 2 As per Condition 17 of Certificate EC-III-25, NB Power is required to report on the effectiveness of the proposed**

mitigation for access management. At the time of any filing related to access management as required by Condition 17 of Certificate EC-III-25, NB Power shall report on the effectiveness of access control measures specific to Mr. Tuddenham's property.

3.2 Albert Stevens

3.2.1 Description of Proposed Route

NB Power's proposed detailed route crosses PID 01340983, located in Saint George Parish near the Bonny River, near KP 48. Approximately 3.4 ha of this property are affected by the proposed 50 m wide RoW, which runs in an east/northeast to west/southwest direction, passing over the southern portion of the subject property. The terrain crossed by the proposed route at this location is generally forested, and a large wetland complex, Williamson Meadow Brook, is situated outside the subject property near its southern perimeter.

This land lies between two crossing points: the origin (eastern) end crossing point at Route 770 and the terminus (western) end crossing point at the Bonny River. The proposed detailed route follows a straight line between these two points. (see Figure 3-2)

3.2.2 Nature of Objection

Mr. Stevens stated that the proposed IPL would adversely affect the wildlife in this area by taking away their shelter and food source. He contended that the subject property, because it has not been clear-cut, provides abundant food supply and shelter for a variety of wildlife. He was concerned that removing forest cover for the proposed 50 m wide RoW over the subject property will reduce what little existing forest is left in the area.

3.2.3 Alternative Route

In his 10 December 2004 letter of objection, Mr. Stevens provided an alternative route that would pass over a cleared area he identified to the north of the subject property. In addition to this northern alternative, Mr. Stevens submitted a second alternative route at the 9 May 2005 hearing. The second alternative avoids the subject property by following a route to the south. Both alternative routes fall outside the approved one km wide corridor.

3.2.4 Views of the Parties

Mr. Stevens stated that NB Power's proposed detailed route would cut the subject property in half and that he wanted the route to avoid the subject property entirely, as this is the only way that wildlife would be protected. He argued that it would make better economical and ecological sense to locate the power line further to the north in an existing cleared area, because there are no trees to cut and there are no property owners to compensate. Mr. Stevens acknowledged that he does not see a better alternative route within the approved one km corridor

NB Power stated that it selected its proposed detailed route to achieve the shortest length and straightest alignment; minimize the number of suspension and angle structures; and maintain a watercourse crossing at a 90 degree angle. NB Power is of the view that its selected route minimizes the impact on the environment, minimizes cost, and is preferable from an engineering perspective. Furthermore, NB Power stated that the proposed detailed route was selected to cross the Bonny River wetland at the narrowest part, to avoid the Williamson Meadow Brook wetland to the south, and to avoid the cranberry development lease that protrudes on to the approved one km wide corridor.

NB Power stated that wildlife was considered as a part of its assessment for the proposed detailed route and that no significant adverse effects were likely to occur, provided that the mitigation measures identified in the CSR were implemented during construction. NB Power also argued that the surrounding area has already been extensively clear-cut and that there are only a few isolated patches of contiguous forest habitat remaining. NB Power is of the view that the actual habitat value in this area is already greatly lowered, as there is no habitat connectivity with other forested areas compared with what is provided by larger contiguous areas of undisturbed forest cover.

Views of the Board

In the Board's view, the evidence in support of Mr. Stevens' objection regarding potential impact on the wildlife, more particularly the potential negative impact on sheltering area and food source, does not raise a doubt regarding the appropriateness of the proposed route.

The Board is satisfied that provided the mitigative measures identified in the CSR are implemented, no significant environmental effects are likely to occur. Mr. Stevens did not present any evidence that might question or refute this conclusion.

The Board is of the view that the criteria used by NB Power in selecting the proposed route achieve the best balance of all the relevant factors and especially avoids major wetland areas located in the area. Mr. Stevens agreed that within the corridor he could not recommend a better route.

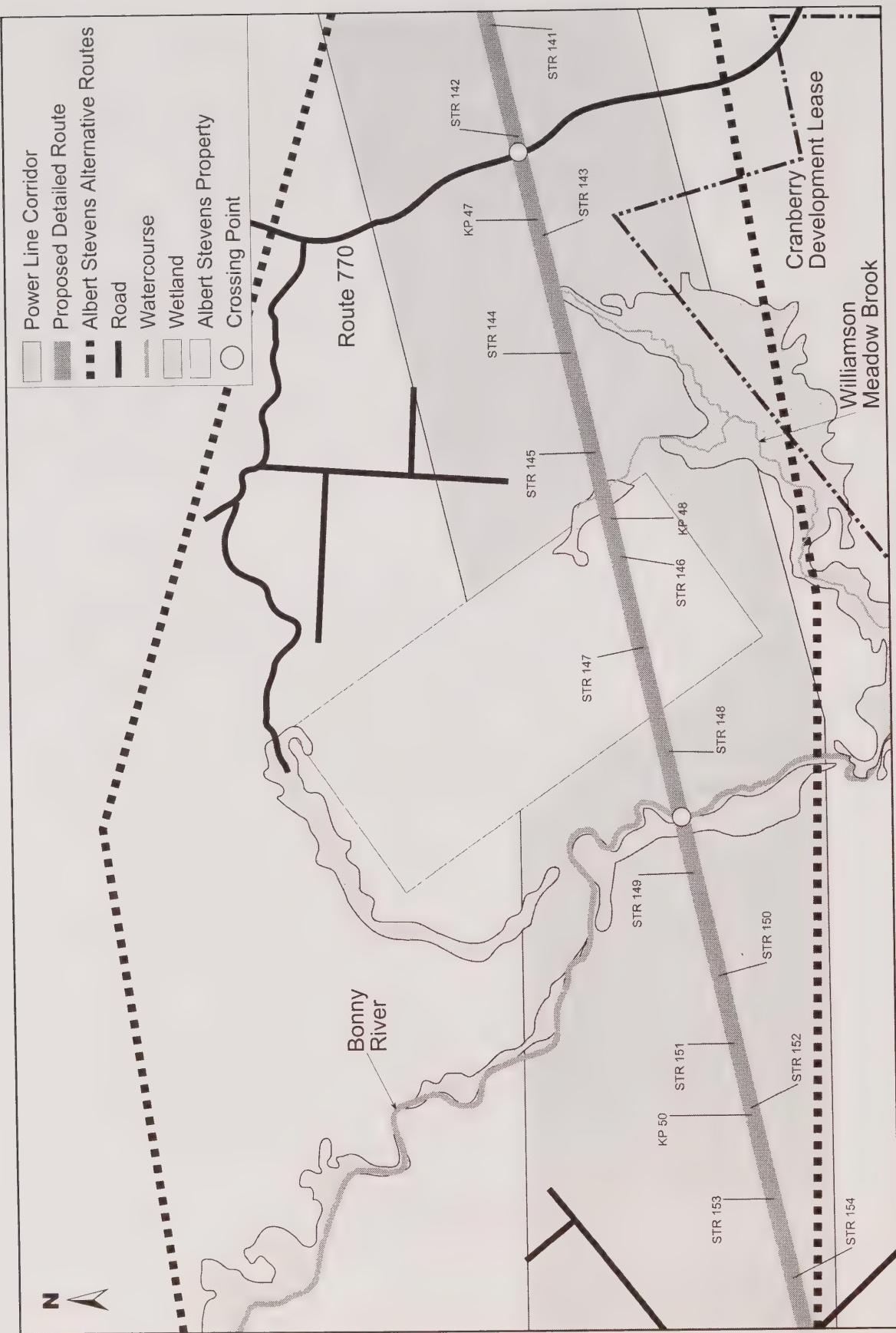
With respect to the alternate routes proposed by Mr. Stevens, both were located outside the approved corridor and accordingly outside of the Board's mandate in a Detailed Route process. The Board took into consideration the evidence presented by Mr. Stevens with regards to those routes but concluded that this evidence does not raise a doubt regarding the appropriateness of the proposed route.

The proposed route represents an appropriate balance of all relevant factors and, therefore, is the best possible detailed route.

Decision

The Board finds that the detailed route proposed by NB Power is the best possible route for the power line in this case, and that NB Power has committed to the most appropriate methods and timing of construction.

Figure 3-2
Map of Albert Stevens Property



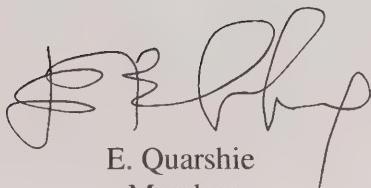
Chapter 4

Disposition

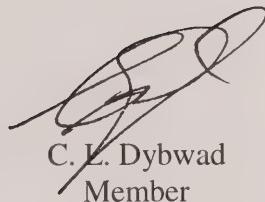
The foregoing chapters constitute our Decisions and Reasons for Decision in the Board's MH-1-2005 detailed route hearings.



D. W. Emes
Presiding Member



E. Quarshie
Member



C. L. Dybwad
Member

Calgary, Alberta
June 2005

